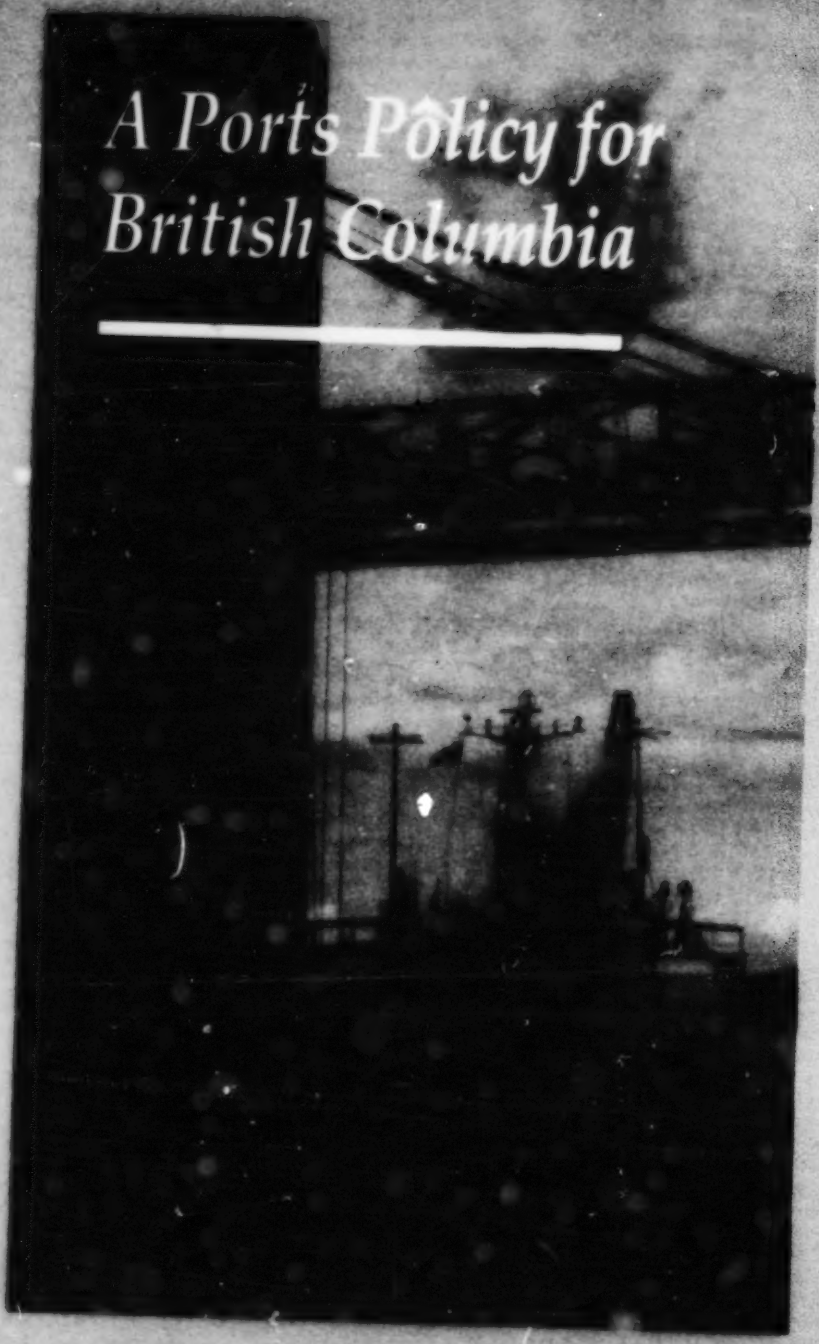
A Ports Policy for British Columbia



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British Columbia Ministry of Transportation and Highways

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Foreword

I have the pleasure of presenting in this document, a summary and description of the British Columbia Ports Policy.

This document is the result of considerable discussion and consultation with a broad range of port users, operators and others interested in how ports in this province are developed and operated.

I would like to thank everyone who provided input to this development process. With such interest and active participation, policy can be developed in an effective, efficient manner.

Ministry staff will be available for the next six to eight months to answer questions that might arise from reading this document. Over the same period, they will draft the legislation, regulations and procedures that will be necessary to implement the policy. It is my intention to introduce the legislation in the Spring of 1991.

Honourable Rita Johnston
Minister of Transportation and Highways
July 1990

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Summary of Initiatives

In summary, the various initiatives which constitute the proposed Ports Policy for British Columbia are as follows:

For unorganized ports, that is those harbours outside the Canada Ports Corporation and Harbour Commission structures:

- Provincial legislation permitting the creation of a new type of harbour administration - a Community Port Authority (CPA).
- Control over provincial land within harbour boundaries to be devolved to a CPA under a head lease.
- Federal/provincial discussion over the future of federal port facilities within the harbour boundaries of new CPAs.
- Creation of a provincial capital support program - a Marine Transport Assistance Program (MTAP) - similar to British Columbia's existing Air Transport Assistance Program (ATAP).
- Provision by the Province of technical support to CPAs in the management and development of ports and facilities.

For the six major ports in British Columbia, that is Canada Ports Corporation ports and Harbour Commissions:

- Enhance provincial input to the management of Local Port Corporations and Harbour Commissions through the appointment of provincial nominees to Boards of Directors and Commissions.

- Improve the effectiveness of the Western Regional Advisory Council.
- Enhance communication between local communities and Local Port Corporations/Harbour Commissions through the establishment of formally constituted Port/Municipal liaison committees.
- Establish formal Port/Provincial liaison committees for each Local Port Corporation and Harbour Commission.

II Background

The federal government has jurisdiction over most ports, harbours, terminal facilities, and wharves in British Columbia. The Province has had no formal involvement in port management and development even though west coast ports are vital to the economic and social fabric of British Columbia.

2.1 *General*

In March 1988, Cabinet directed the Ministry of Transportation & Highways to prepare a comprehensive Transportation Plan and to generate recommendations regarding a provincial Ports Policy.

A report was commissioned to examine the situation and make recommendations regarding the form and scope of a potential ports policy. This report was received in November 1988. At about the same time, a baseline report on the transportation system in British Columbia was completed in the context of the provincial Freedom to Move initiative, it included one volume on ports which also contained policy recommendations.

In mid 1988, the federal Department of Fisheries and Oceans introduced a Harbour Authority

Program to devolve the management of wharves and facilities to interested municipalities and other local groups. A component of this program involved the transfer and administration of provincial waterlots. A study was commissioned to examine this development. Although the general thrust of the DFO program was endorsed, it was recognized that the provincial response should be in the context of a comprehensive ports policy. Further transfers of the administration and control over land in support of the DFO program were accordingly deferred.

These three studies produced a series of recommendations that were in some areas similar, but also contained significant differences.

2.2 *The Discussion Paper*

In September 1989 the Ministry of Transportation and Highways released a Ports Policy Discussion Paper. It outlined the rationale for provincial interests and presented all of the recommendations in the three studies, and some suggestions as to how provincial concerns might be addressed. It was anticipated that less than 500 of these papers would be distributed, and that reaction/response could be gathered relatively quickly.

In the event, the level of interest in the paper exceeded all expectations. Three print runs were required and over 2,000 copies of the paper were distributed to communities, port operators, users, governments and other interested parties, many of whom requested meetings and/or additional information. At the completion of extensive consultations, a fairly consistent picture of the issues, and the type and scope of provincial participation in ports, had evolved.

2.3 *The Response*

Analysis of the responses to the Ports Policy Discussion Paper generated 14 major issue areas and a large number of sub-issues. The core issues relate to land tenure, land use, transportation system planning and development, local autonomy and participation, funding, economic and regional development, and social obligations to isolated and marine dependent communities.

Recognition of provincial interests and concerns regarding the current structure was general. The need for an enhanced provincial role received overall endorsement - largely as a facilitator of devolution, and augmented local autonomy but not in any direct management capacity.

The existing federal port structure is unable to meet the needs of the Province and local communities in a number of areas:

For unorganized harbours:

- The system is not responding effectively to local social and economic concerns in a cost-efficient manner.
- The resources available, including provincial crown lands in natural harbours, are not being combined effectively.
- Economic development opportunities are being missed, delayed, or exploited sub-optimally.

For the six organized harbours:

- The integrated transportation planning role of the Province can be enhanced through improved formal liaison and input procedures.

The proposals involve extensive inter-governmental and inter-agency considerations. The Ports Policy for British Columbia will recognize existing federal interests and federal port structures. Similarly, federal port structures must appreciate and accommodate legitimate provincial interests related to economic and social development and intermodal transportation planning.

Extensive discussions/negotiations with the federal government are envisaged, in order to ensure that the proposed Provincial Ports Policy meshes closely with the federal ports system and its objectives.

General Approach

The proposed Provincial Ports Policy can be separated into two underlying thrusts:

Ports outside the Canada Ports Corporation/Harbour Commission structure – which includes most of the small and medium-size harbours and ports in British Columbia. In this sub-sector, the existing federal management and development processes are not comprehensive, the allocated resources are limited, and there is a perception that the program often fails to fulfil local or regional aspirations.

- The Ports Policy response in this area is for a new harbour management structure - a Community Port Authority - to be established under provincial legislation.

The second thrust relates to the larger ports operating under comprehensive federal mandates. In this sub-sector, provincial concerns are weighted towards integrated transportation system planning.

- The Ports Policy response in this area is for a number of formal liaison procedures to enhance communication and comprehensive system planning.

The long term development of port facilities in the lower mainland to meet the needs of the twenty-first century is an area demanding special attention.

FOR UNORGANIZED HARBOURS

IV

Community Port Authorities

4.1 Legislation

There is a demonstrated need for properly constituted authorities to manage and develop harbours in a comprehensive manner.

The enabling vehicle must be flexible. At one end of the spectrum, an authority will be managing a small harbour where the focus is entirely on service to the local community. At the opposite end, it will manage a complex harbour containing a much broader range of interests.

Independence is one of the strengths of the organized port structure in Canada. There are good reasons to emulate this autonomy in any provincial initiative, for many groups with a direct interest in a harbour need to be represented - including the itinerant fishing fleet, recreational boaters, and the resource companies that rely on port facilities (such as forestry, aquaculture, and mining).

- Therefore, for ports and harbours outside the Canada Ports Corporation and Harbour Commission structures, provincial legislation is proposed to create a new type of harbour administration - Community Port Authorities (CPAs).

Although CPAs will be created under a provincial mandate, local representation and administration will be linked to existing municipal structures, and the Board of a CPA will have a strong community focus.

In its simplest form, the Board of a CPA will have members appointed directly by local government, plus provincial nominees - drawn from port users, and local industrial and commercial interests. Where a federal port facility lies within the harbour boundary a federal official could be one of these provincial nominees.

In a more complex alternative, the majority of the members of the Board could be elected by the community at large (one or more municipalities, electoral areas, or the regional district, as appropriate) with the host municipality and the Province each retaining a single direct appointment. In this case, the CPA could be granted taxing authority, subject perhaps to referendum; the Port Districts of Washington State provide a model of this type.

It has been decided, however, to adopt the non-elective/non-taxing model in the first instance. The second alternative may be reconsidered at a later date if it appears to be appropriate, based on actual experience.

An application to establish a CPA will be made to the Minister of Transportation & Highways. It will be considered jointly by the Ministries of Transportation & Highways, Crown Lands, Municipal Affairs, Recreation and Culture and Regional & Economic Development.

4.2 Land Tenure/Head Lease

Although not essential, it is envisaged that where Transport Canada/Harbours & Ports (TC/H&P) has authority over a harbour under the Harbours & Port Facilities Act, the designation will be cancelled by federal order in council when a CPA is established.

- In order to allow a CPA to exercise comprehensive management of its designated harbour area, control over provincial land within harbour boundaries will be devolved to a CPA through a head lease granted under the Land Act.

The head lease will contain reversionary rights and other features designed to promote efficient management, while protecting the interests of other parties - specifically those of users and the Province.

It is intended that a CPA should play a lead role in land use decisions for the harbour, its foreshore and adjacent upland areas. This is essential if the body is to effectively develop facilities and amenities in the harbour area. Definition of harbour boundaries and the extent of the area of influence over land use issues will be agreed upon the formation of the CPA in consultation with local government.

The ability of existing federal port authorities to control land use within harbour boundaries can be contentious - particularly where a port authority has an industrial development agenda which conflicts with other community objectives.

A mechanism to resolve land use conflicts is essential. As a condition of formation, a CPA will be required to produce a harbour development plan for incorporation into the community plan

of the host municipality. In the event that the municipality does not accept those parts of the harbour development plan that are consistent with, and specifically protected by the mandate of the CPA, then the issue will be referred to the Province. Similar provisions will apply to site-specific development issues where consensus proves elusive. Provincial referral will be to the same inter-ministerial committee that deals with CPA applications.

4.3 Funding

The revenue accruing to a CPA will include income from marine operations, a share of the income accruing to the head lease, plus other funding as permitted under the CPA legislation - such as municipal tax requisitions, or benefitting area levies, and (for capital expenditure only) debt financing. Where federal port facilities are devolved to a CPA, part of the transfer agreement can be expected to address financial matters.

- The base funding will be supplemented by discretionary amounts under a new provincial Marine Transport Assistance Program (or MTAP).

MTAP will be similar to the existing Air Transport Assistance Program (ATAP) administered by the Ministry of Transportation & Highways. Disbursements under MTAP will constitute capital grants only.

4.4 Support Framework

There is a need for a support framework able to guide CPAs through startup and subsequent harbour development proposals. Many communities want to pursue harbour management and development goals but find

they do not have the expertise or resources needed to deal effectively with the issues involved. In recognition of this need:

- Support will be provided by the provincial government in association with the proposed MTAP program.

Where major harbour developments are involved, the framework will be coordinated with the Ministry of Regional & Economic Development's Major Project Review Process (MPRP).

FOR ORGANIZED PORTS

Liaison/Integrated Transportation System Planning

5.1 Major Ports - Board Commission Appointments

Board appointments to Local Port Corporations in British Columbia (seven members) are all federal. A majority of the appointments to harbour commissions (two out of three, or three out of five) are federal, the host municipality/ies nominates the balance.

In spite of the significant provincial interest in the port sector, the Province has no opportunity to appoint or nominate board or commission members.

- To rectify this situation, the Province will approach the federal government to secure board and commission appointments for British Columbia in future.

With respect to ports of national significance (as determined on the basis of inter-provincial trade), federal appointees should continue to make up the majority of the Board or Commission. Nominees will not be drawn from the provincial public service.

5.2 Western Regional Advisory Council (WRAC)

From a provincial perspective, the Western Regional Advisory Council (WRAC) is a forum in which the four western provinces have equal representation. There have been a number of suggestions that WRAC should be revamped and revitalized. Certainly WRAC could be made a much more effective vehicle if it provided a sharp focus on certain port-related issues. This could be achieved by a more effective control of WRAC's agenda, and the incorporation of high - profile issues. Funding and a paid secretariat might assist in achieving this goal. The advisory status of WRAC still renders it unsuitable as the sole, or the major forum for British Columbia's involvement in the port sector - but the Province will continue to support WRAC within this context.

- ❑ Transport Canada will be requested to improve WRAC's effectiveness through the allocation of additional resources.

As WRAC's function is to advise the federal Minister of Transport, it is suggested that these resources should be supplied through Transport Canada's Western Regional Office of Policy and Coordination.

5.3 Liaison Committees

- ❑ The Province will encourage the establishment of formally constituted Port/Municipal liaison committees.

Some already exist - usually on an ad hoc basis, and with varying degrees of success. These committees should meet at least quarterly, and the Province should be accorded observer status at the meetings.

- Formal Port/Province committees will be established for each of the six major ports.

The focus will be on major planning and policy issues, and on maintaining and improving the integration of the provincial transportation system. Land-side transportation congestion issues will be a major agenda item. Meetings will be at least semi-annual.

Representation on the Port/Province committees, and observer status on the Port/Municipal committees, will be from the Ministry of Transportation & Highways and include headquarters policy staff and the appropriate regional planning managers.